

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

RALPH SIMON,	)	Case No. 4:14-cv-1136 (JAR)
	)	
Plaintiff,	)	
	)	
v.	)	
	)	<b>DECLARATION OF</b>
SELECT COMFORT RETAIL CORP.,	)	<b>ANDREW S. HANSEN</b>
	)	
and	)	
	)	
SELECT COMFORT CORPORATION,	)	
	)	
Defendant.	)	

I, Andrew S. Hansen, declare as follows:

1. I am an attorney with the law firm of Oppenheimer Wolff & Donnelly LLP. I am one of the attorneys representing Defendants in the above-captioned matter. I make this declaration based on my personal knowledge.
2. Select Comfort designs, manufactures, and markets the Sleep Number bed, which is an adjustable-air bed that utilizes air chambers to adjust the firmness of the bed.
3. Attached hereto as Exhibit 1 is a true and correct copy of the transcript of the deposition of Plaintiff Ralph Simon, taken on May 15, 2015.
4. Attached hereto as Exhibit 2 is a true and correct copy of excerpts from the transcript of the deposition of Jeffrey Barnum, taken on May 28, 2015.
5. Attached hereto as Exhibit 3 is a true and correct copy of excerpts from the transcript of the deposition of Robert Craig, M.D., taken on June 2, 2015.

6. Attached hereto as Exhibit 4 is a true and correct copy of excerpts from the transcript of the deposition of Kathy Driskill, taken on May 11, 2015.

7. Attached hereto as Exhibit 5 is a true and correct copy of excerpts from the transcript of the deposition of Heather Somers, taken May 28, 2015.

8. Attached hereto as Exhibit 6 is a true and correct copy of the transcript of the deposition of Neil Geoffrey Carlson, taken on August 7, 2015.

9. Attached hereto as Exhibit 7 is a true and correct copy of the Expert Report of Neil Carlson, dated June 19, 2015, together with its exhibits, attachments, and enclosures<sup>1</sup>.

10. Attached hereto as Exhibit 8 is a true and correct copy of the Expert Rebuttal Report of Neil Carlson, dated July 16, 2015, together with its exhibits, attachments, and enclosures.

11. Attached hereto as Exhibit 9 is a true and correct copy of the transcript of the deposition of Dr. Ernest Chiodo, taken August 20, 2015.

12. Attached hereto as Exhibit 10 is a true and correct copy of the Expert Report of Dr. Ernest P. Chiodo, dated June 4, 2015, together with its exhibits, attachments, and enclosures.

13. Attached hereto as Exhibit 11 is a true and correct copy of the transcript of the deposition of Patsy Duncan, CIEC, CMR, taken on August 12, 2015.

14. Attached hereto as Exhibit 12 is a true and correct copy of the Expert Report of Patsy Duncan, together with its exhibits, attachments, and enclosures.

15. Attached hereto as Exhibit 13 is a true and correct copy of the Expert Rebuttal Report of Patsy Duncan, dated July 17, 2015.

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<sup>1</sup> Defendant has applied page numbers to the following expert and expert rebuttal reports for citation purposes: Carlson, Carlson Rebuttal, Chiodo, Duncan, Duncan Rebuttal, Hemming, Lickfield Rebuttal, Pastore, Sher, and Wedner.

16. Attached hereto as Exhibit 14 is a true and correct copy of excerpts from the transcript of the deposition of Bruce C. Hemming, Ph.D., taken August 12, 2015.

17. Attached hereto as Exhibit 15 is a true and correct copy of the Microbe Inotech Laboratories, Inc. Summary Report of Analysis Expert Report prepared by Dr. Bruce C. Hemming, Ph.D., dated March 26, 2015, together with its exhibits, attachments, and enclosures.

18. Attached hereto as Exhibit 16 is a true and correct copy of the Microbe Inotech Laboratories, Inc. Rebuttal Expert Report prepared by Dr. Bruce C. Hemming, Ph.D., dated July 1, 2015.

19. Attached hereto as Exhibit 17 is a true and correct copy of excerpts from the transcript of the deposition of Deborah K. Lickfield, Ph.D., taken August 21, 2015.

20. Attached hereto as Exhibit 18 is a true and correct copy of the Rebuttal Expert Report of Dr. Deborah K. Lickfield, Ph.D., dated July 17, 2105.

21. Attached hereto as Exhibit 19 is a true and correct copy of the transcript of the deposition of Christopher M. Pastore, Ph.D., taken August 18, 2015.

22. Attached hereto as Exhibit 20 is a true and correct copy of the Expert Report of Christopher M. Pastore, Ph.D, together with its Federal Rule 26(A) and CV attachments. Defendant have not included the voluminous documents relied upon by the expert produced along with the report

23. Attached hereto as Exhibit 21 is a true and correct copy of the Expert Report of Neal A. Sher, MD, FAAO, FACS, dated July 17, 2015, together with its exhibits, attachments, and enclosures.

24. Attached hereto as Exhibit 22 is a true and correct copy of excerpts from the transcript of the deposition of H. James Wedner, M.D., taken August 13, 2015.

25. Attached hereto as Exhibit 23 is a true and correct copy of the Expert Report of H. James Wedner, MD, FACP, FAAAAI, dated June 17, 2015, together with its exhibits, attachments, and enclosures.

26. Attached hereto as Exhibit 24 is a true and correct copy of the Rebuttal Expert Report of H. James Wedner, MD, FACP, FAAAAI, dated July 17, 2015.

27. Attached hereto as Exhibit 25 is a true and correct copy of excerpts from Hung, Ph.D., Ling-Ling et al., *Field Guide for the Determination of Biological Contaminants in Environmental Samples* (2005 2d Ed. AIHA).

28. Attached hereto as Exhibit 26 is a true and correct copy of a web capture of the Environmental Microbiology Laboratory Accreditation Program (EMLAP) page, <http://www.aihaaccreditedlabs.org/programs/Pages/EMLAP.aspx>, captured August 28, 2015.

29. Attached hereto as Exhibit 27 is a true and correct copy of a web capture of the Sleep Number Approach page, [http://www.sleepnumberfacts.com/sleep\\_number\\_approach.html](http://www.sleepnumberfacts.com/sleep_number_approach.html), captured August 28, 2015.

30. Attached hereto as Exhibit 28 is a true and correct copy of Select Comfort Order Number 19991119213522, dated November 19, 1999, bates labeled as Simon 00002.

31. Attached hereto as Exhibit 29 is a true and correct copy of photographs produced by plaintiff, bates labeled as Simon 00003-4.

32. Attached hereto as Exhibit 30 is a true and correct copy of UPS Shipping labels, bates labeled as Simon 00006-7.

33. Attached hereto as Exhibit 31 is a true and correct copy of a Select Comfort Set Up Guide, bates labeled as SC000149-150.

34. Attached hereto as Exhibit 32 is a true and correct copy of an Affidavit of Ralph Simon, dated November 15, 2013, bates labeled as SC000169-171.

35. Attached hereto as Exhibit 33 is a true and correct copy of an audio recording of a service call made March 2, 2013 and bates labeled SC000609. Due to the audio nature of the exhibit, it will be filed conventionally.

36. Attached hereto as Exhibit 34 is a true and correct copy of a Customer Service Computer Screen snapshot of a call made March 2, 2013, bates labeled as SC000635.

37. Attached hereto as Exhibit 35 is a true and correct copy of a summary of Select Comfort interactions with R. Simon, bates labeled as SC000636.

38. Attached hereto as Exhibit 36 is a true and correct copy of a page from the Select Comfort CS Spec Book on General Troubleshooting, dated March 29, 1999, bates labeled as SC000819. This document is marked confidential, and is filed under seal.

39. Attached hereto as Exhibit 37 is a true and correct copy of a letter and accompanying Affidavit of Dr. Philip L. Martin, dated June 19, 2015.

40. Attached hereto as Exhibit 38 is a true and correct copy of Plaintiff's Rule 26(1)(A) Initial Disclosures, dated January 16, 2015.

Date: August 28, 2015.

s/ Andrew S. Hansen  
Andrew S. Hansen